

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

CONSTANCE BLANCETT,

Plaintiff,

Civil Action No.: 17-CV-02383-JNE-FLN

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

NOW COMES Plaintiff, Constance Blancett, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1068], and by and through undersigned counsel submits this, her Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

1. In July of 2015, Ms. Constance Blancett contacted undersigned counsel regarding an infection and subsequent treatment that she experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery.
2. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicate that a Bair Hugger device was used during the original surgery.
3. On June 29, 2017, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

4. Initial efforts to have Ms. Blancett complete the Plaintiff Fact Sheet were complicated by her not answering phone calls, returning voice messages, or responding to contact letters or emails.
5. Phone calls by Kennedy Hodges staff went unanswered on the following dates: July 24, 2017, August 30, 2017, September 19, 2017, September 21, 2017, September 25, 2017, September 26, 2017, September 27, 2017, and February 5, 2018.
6. Additionally, letters were sent to Ms. Blancett on the following dates: June 30, 2017, July 17, 2017, September 26, 2017, and February 5, 2018.
7. While counsel has diligently continued to make efforts to contact Ms. Blancett for several months, those efforts have not been successful to date.
8. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim.

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Ms. Blancett be given an additional sixty (60) days to contact counsel in order to provide the necessary information to cure any alleged deficiencies with the Plaintiff Fact Sheet and to continue the case.

Dated: February 8, 2018

KENNEDY HODGES, LLP

By: /s/ David W. Hodges
David W. Hodges
dhodges@kennedyhodges.com
Gabriel A. Assaad
gassaad@kennedyhodges.com
4409 Montrose Blvd. Ste 200
Houston, TX 77006
Telephone: (713) 523-0001
Facsimile: (713) 523-1116

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on February 8, 2018 a copy of the forgoing instrument was served on all parties via the Court's electronic filing system.

By: /s/ David W. Hodges
David W. Hodges